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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 **RAJINDER WALIA and**
12 **RASNECK WALIA,**

13 **Plaintiff,**

14 **v.**

15 **ROBERT BOYD and**
16 **GLADYS M. ESPINOZA, et al.,**

17 **Defendants.**

Case No. CV 17-01739-AB (RAOx)

**ORDER REMANDING ACTION
AND DENYING REQUEST TO
PROCEED IN FORMA PAUPERIS**

18 **I.**

19 **FACTUAL BACKGROUND**

20 Plaintiffs Rajinder Walia and Rasneck Walia (“Plaintiffs”) filed an unlawful
21 detainer action in Los Angeles County Superior Court against Defendants Robert
22 A. Boyd and Gladys M. Espinoza on or about November 30, 2016. Notice of
23 Removal (“Removal”) and Attached Complaint for Unlawful Detainer (“Compl.”)
24 Dkt. No. 1. Defendants are allegedly unauthorized tenants of real property located
25 in Pomona, California (“the property”). Compl., ¶¶ 3, 6. Plaintiffs are the owner of
26 the property. *Id.* at ¶¶ 2, 4.

27 Darla Brooks (“Defendant”), who claims to be the former owner of the
28 property and a current tenant, filed a Notice of Removal on March 3, 2017,

1 invoking the Court's federal question jurisdiction based on congressional enactment
2 of Protecting Tenants at Foreclosure Act of 2009 ("PTFA"). Removal at 1-3, 6.
3 The same day, Defendant filed a request to proceed in forma pauperis. Dkt. No. 2.

4 II.

5 DISCUSSION

6 Federal courts are courts of limited jurisdiction, having subject matter
7 jurisdiction only over matters authorized by the Constitution and statute. *See, e.g.,*
8 *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377, 114 S. Ct. 1673, 128
9 L.Ed.2d 391 (1994). It is this Court's duty always to examine its own subject
10 matter jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514, 126 S. Ct. 1235,
11 163 L.Ed.2d 1097 (2006), and the Court may remand a case summarily if there is
12 an obvious jurisdictional issue. *Cf. Scholastic Entm't, Inc. v. Fox Entm't Grp., Inc.*,
13 336 F.3d 982, 985 (9th Cir. 2003) ("While a party is entitled to notice and an
14 opportunity to respond when a court contemplates dismissing a claim on the merits,
15 it is not so when the dismissal is for lack of subject matter jurisdiction.") (omitting
16 internal citations). A defendant attempting to remove an action from state to
17 federal court bears the burden of proving that jurisdiction exists. *See Scott v.*
18 *Breeland*, 792 F.2d 925, 927 (9th Cir. 1986). Further, a "strong presumption"
19 against removal jurisdiction exists. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th
20 Cir. 1992).

21 Defendant asserts that this Court has subject matter jurisdiction due to the
22 existence of a federal question. (Removal at 2-3, 6.) Section 1441 provides, in
23 relevant part, that a defendant may remove to federal court a civil action in state
24 court of which the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a).
25 Section 1331 provides that federal "district courts shall have original jurisdiction of
26 all civil actions arising under the Constitution, laws, or treaties of the United
27 States." *See id.* § 1331.

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1 Here, the Court's review of the Notice of Removal and attached Complaint
2 makes clear that this Court does not have federal question jurisdiction over the
3 instant matter under 28 U.S.C. § 1331. First, there is no federal question apparent
4 from the face of the Complaint, which appears to allege only a simple unlawful
5 detainer cause of action. *See Wescom Credit Union v. Dudley*, No. CV 10-8203
6 GAF (SSx), 2010 WL 4916578, *2 (C.D.Cal. Nov. 22, 2010) ("An unlawful
7 detainer action does not arise under federal law.") (citation omitted); *IndyMac*
8 *Federal Bank, F.S.B. v. Ocampo*, No. EDCV 09-2337 PA(DTBx), 2010 WL
9 234828, at *2 (C.D.Cal. Jan. 13, 2010) (remanding an action to state court for lack
10 of subject matter jurisdiction where plaintiff's complaint contained only an
11 unlawful detainer claim).

12 Second, there is no merit to Defendant's contention that federal question
13 jurisdiction exists because the PTFA preempted state law in this subject matter.
14 Removal at 2-3, 6. The PTFA does not create a private right of action; rather, it
15 provides a defense to state law unlawful detainer actions. *See Logan v. U.S. Bank*
16 *Nat. Ass'n*, 722 F.3d 1163, 1164 (9th Cir. 2013) (affirming dismissal of the
17 complaint because the PTFA "does not create a private right of action allowing
18 [plaintiff] to enforce its requirements"). It is well settled that a "case may not be
19 removed to federal court on the basis of a federal defense . . . even if the defense is
20 anticipated in the plaintiff's complaint, and even if both parties concede that the
21 federal defense is the only question truly at issue." *Caterpillar, Inc. v. Williams*,
22 482 U.S. 386, 393, 107 S.Ct. 2425, 2430, 96 L.Ed.2d 318 (1987). Thus, to the
23 extent Defendant's defenses to the unlawful detainer action are based on alleged
24 violations of federal law, those defenses do not provide a basis for federal question
25 jurisdiction. *See id.* Because Plaintiffs' complaint does not present a federal
26 question, either on its face or as artfully pled, the court lacks jurisdiction under 28
27 U.S.C. § 1331.

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III.

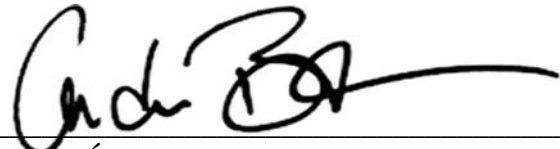
CONCLUSION

Accordingly, IT IS ORDERED that this case is REMANDED to the Superior Court of California, County of Los Angeles, forthwith.

IT IS FURTHER ORDERED that Defendant's Request to Proceed In Forma Pauperis is DENIED as moot.

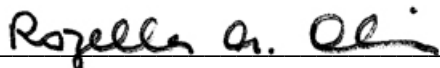
IT IS SO ORDERED.

DATED: March 10, 2017



ANDRÉ BIROTTE JR.
UNITED STATES DISTRICT JUDGE

Presented by:



ROZELLA A. OLIVER
UNITED STATES MAGISTRATE JUDGE